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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,406	07/10/2003	Michael L. Newman SR.	NEW001/135871	5538

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EXAMINER

ROWAN, KURT C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/618,406

Applicant(s)

NEWMAN, MICHAEL L.

Examiner

Kurt Rowan

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrison et al.

The patent to Harrison shows a de-hooking device 1 having a handle member 2, an integral de-hooking element 3 extending from the handle member and having a straight elongate shank section 4 defining an open end. Harrison shows a tight bend forming a loop 5 of U-shaped configuration. Harrison shows a substantially straight end section 6 having a length at least three times the radius of the loop disposed in a spaced relation with the elongate shank. Harrison shows a terminal section 7-8 extending from the substantially straight end section and being oriented in an outwardly diverging relation with the elongate shank section. In reference to claim 2, Harrison discloses steel.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al.

The patent to Harrison shows a de-hooking device as discussed above. Harrison shows a terminal section 7-8 that is curved and being oriented at about a right angle with respect to the straight end section. However, it would have been obvious to employ a straight configuration and to orient the terminal section by an obtuse angle with respect to the straight end section if the function is the same, no stated problem is solved and no showing of unexpected results was made.

3. Claims 4-9, 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al. as applied to claim 1 above, and further in view of Brown.

The patent to Harrison shows a de-hooking device as described above. The patent to Brown shows a de-hooking device with a handle 1 and a pivoted de-hooking element 2, 5 which opens and closes as shown in Figs. 1-2. In reference to claims 4 and 11, it would have been obvious to provide Harrison with a pivoted element as shown by Brown for the purpose of making the de-hooker more compact. In reference to claims 5 and 14, Brown shows a handle 1 with a slot that extends along the handle length. Brown shows a pivot end being defined the straight shank of the integral de-hooking element. Brown shows a pivot element 3 extending through the pivot receptacle and pivot opening. In reference to claims 6 and 15, Harrison shows the handle of integral construction. In reference to claims 7 and 16, Brown shows the handle member that inherently has a pair of scales or side plates, one on each side of the blade. One of the

Art Unit: 3643

side plates is visible in the drawings. In reference to claims 8 and 17, Harrison shows a plurality of ridges and valleys defined by the handle member in Fig. 3. In reference to claims 9 and 18, Brown shows an angular pivot end portion the in general circles around the pivot pin and which has a frictional engagement with surfaces of the elongate slot. However, it would have been obvious to employ a circular pivot end portion since shape of the end pivot portion would be determined through routine experimentation since the function is the same and no stated problem is solved. See In re Dailey et al., 149 USPQ 47. The de-hooking element resists free pivotal movement relative to the handle member or the blade would fall open. In reference to claim 12, see the rejection of claim 2, above. In reference to claim 13, see the rejection of claim 3, above.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al. as applied to claim 1 above, and further in view of Trahan.

The patent to Harrison shows a fishing de-hooker as discussed above, but does not disclose if the device is buoyant. The patent to Trahan shows a fishing de-hooker that is buoyant as disclosed in column 2, lines 56-63. In reference to claim 10, it would have been obvious to make the device of Harrison buoyant as shown by Trahan so that the de-hooker would float if dropped in water.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al. in view of Brown as applied to claim 11 above, and further in view of Trahan.

See the rejection of claim 10 above, now in view of Brown.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

Art Unit: 3643

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan  
Primary Examiner  
Art Unit 3643

KR